

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

HABTAMU DANIEL,

Plaintiff,

v.

Case No. 16-CV-3016 (JNE/HB)
ORDER

HMS HOST,

Defendant.

This matter is before the Court on a Report and Recommendation (“R&R”) issued by the Honorable Hildy Bowbeer, United States Magistrate Judge, on March 31, 2017. (*See* Dkt. No. 26.) The R&R recommends granting Defendant HMS Host’s motion to dismiss for failure to state a claim under Fed. R. Civ. P. 12(b)(6) or, in the alternative, strike Plaintiff Habtamu Daniel’s Complaint under Fed. R. Civ. P. 12(e). (*See* Dkt. Nos. 15, 18.) Specifically, the R&R recommends dismissal under Rule 12(b)(6). (*See* Dkt. No. 26 at 5-6.) Neither party objected to the R&R by the April 14, 2017 deadline to do so. However, Plaintiff Habtamu Daniel sent the Court a letter, received May 5, 2017, generally objecting to dismissal. (*See* Dkt. No. 27.)

Daniel’s letter states that he was “hospitalized for mental illness from December 19, 2016 to February 21, 2017,” (*see* Dkt. No. 27), which could explain why he failed to comply with the Court’s previous order directing him to file a more definite, amended complaint by December 29, 2016, (*see* Dkt. No. 14). Daniel did not explain, however, why his objection was late or why this action should not be dismissed for failure to state a claim, except to assert that because he is from a poor country and mentally ill, federal law does not apply to him. (*See* Dkt. No. 27.) To the contrary, federal law and the rules of this Court certainly do apply to Daniel and this action. Because Daniel has failed to provide a persuasive reason for why the R&R’s recommendation to

dismiss his claims is incorrect or improper, and because the R&R correctly concluded that the Complaint in its current form fails to state a claim, the Court accepts the R&R's recommended disposition. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); D. Minn. LR 72.2(b)(1).

Therefore, IT IS ORDERED THAT:

1. Defendant HMS Host's Motion to Dismiss for Failure to State a Claim and Motion to Strike [Dkt. No. 15] is GRANTED, to the extent it requests dismissal under Fed. R. Civ. P. 12(b)(6).
2. Plaintiff Habtamu Daniel's claims against Defendant HMS Host are DISMISSED WITHOUT PREJUDICE.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: May 10, 2017.

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge